

# TO THE PUBLIC AND RESIDENTS OF VERNAL CITY:

Notice is hereby given that the **VERNAL CITY PLANNING COMMISSION** will hold a regular meeting on **Tuesday, January 13, 2015 at 7:00 p.m.** in the Vernal City Council Chambers at 374 East Main Street, Vernal, Utah.

## AGENDA

### A. STANDING BUSINESS

1. Welcome and Designation of Chair and Members
2. Elect 2015 Chair and Vice-Chair
3. Approval of Minutes of November 18, 2014 Regular Meeting **(TAB 1)**
4. Approval of Minutes of December 2, 2014 Special Meeting **(TAB 2)**

### B. PUBLIC HEARINGS – 7:05 P.M.

1. Request for Recommendation of a Minor Subdivision for Veronica Bird for the Property Located at 577 South 400 West, Vernal, Utah – Application No. 2014-036-SUB – Allen Parker **(TAB 3)**
2. Request for Recommendation of a Minor Subdivision for Dennis Mott for the Orr Subdivision Located at 1407 West Highway 40, Vernal, Utah – Application No. 2014-037-SUB – Allen Parker **(TAB 4)**
3. Request for Recommendation to Consider Amending the Vernal City Municipal Planning and Zoning Code – Section 16.24.060 – Flag Lots Permitted – Ordinance No. 2015-01 – Allen Parker **(TAB 5)**

### C. ACTION ITEMS

1. Request for Recommendation to Consider Amending the Vernal City Planning Commission Bylaws – Resolution No. 2015-01 – Allen Parker **(TAB 6)**
2. Request for Recommendation to Consider Amending the Vernal City Municipal Planning & Zoning Code – Chapter 16.10 – Board of Adjustment – Ordinance No. 2014-31 – Allen Parker **(TAB 7)**
3. Request for Recommendation to Consider Amending the Vernal City Municipal Planning & Zoning Code – Chapter 16.48 – C-2 and CC-1 Commercial Zones – Ordinance No. 2014-34 – Allen Parker **(TAB 8)**
4. Request for Recommendation to Consider Amending the Vernal City Municipal Planning & Zoning Code – Chapter 16.04 – Definitions and Chapter 16.44 – R-4 Residential Zone – Ordinance No. 2014-33 – Allen Parker **(TAB 9)**

### D. DISCUSSION

1. Planning Commission Vacancy – Allen Parker

### E. ADJOURN

In compliance with the Americans with Disabilities Act, individuals needing special accommodation during this meeting should notify Allen Parker at 374 East Main, Vernal, Utah, 84078, telephone (435) 789-2271, at least five days prior to the meeting. All public comments will be limited to two (2) minutes.

# MINUTES of the Vernal City PLANNING COMMISSION

Vernal City Council Chambers - 374 East Main Street, Vernal, Utah

December 2, 2014

6:00 pm

**Members Present:** Vice-Chair Samantha Scott, Ken Latham, Kathleen Gray, Kimball Glazier, and Rory Taylor

**Members Excused:** Mike Drechsel

**Alternates Present:** Adam Ray

**Alternates Excused:** Isaac Francisco

**Staff Present:** Allen Parker, Assistant City Manager; Corey Coleman, Building Official; and Gay Lee Jeffs, Administrative Clerk.

**WELCOME AND DESIGNATION OF CHAIR AND MEMBERS:** Vice-Chair Samantha Scott welcomed everyone to the Planning Commission meeting.

**REQUEST FOR RECOMMENDATION TO CONSIDER AMENDING THE VERNAL CITY MUNICIPAL PLANNING & ZONING CODE – SECTION 16.58.510 – ENFORCEMENT & PERMITS – ORDINANCE NO. 2014-39 –ALLEN PARKER:** Allen Parker explained that the current Code states that if land is subdivided within the City limits, in order to get a building permit, the subdivision must be completed with the infrastructure in place or the infrastructure must be completed and accepted by the City up to and including the frontage of the lot.

The proposed change adds to the subdivision section of the Code. “Section 1. Section 16.58.510 A. 2. A building permit, but not a certificate of occupancy, may be issued on lots in a subdivision before the public improvements are made, provided that a financial guarantee be established in accordance with section 16.58.450 guaranteeing the public improvements in said subdivision. In all cases, the guarantee must apply to all improvements connecting the subdivision to a fully approved and accepted public road.” The few changes in 3. are typos on line one “it’s to its” and “improvements to improvements”.

Kathleen Gray clarified that if the roads are not completed and the weather gets bad then nothing will get done until the roads are completed the following Spring. Allen Parker agreed with Ms. Gray’s statement. Kimball Glazier suggested more clarification for public improvements so that the utility improvements are not included in the Code. Mr. Parker stated that public improvements are detailed in section 16.58.450 under the financial guarantee. Mr. Glazier stated that the Code change will be a great benefit to builders and developers in the community. Rory Taylor asked if the financial guarantee was sufficient enough for the City to complete the infrastructure if the builder or developer walked away from the project. Mr. Parker stated that the financial guarantee is 150% of the infrastructure projected cost. Therefore, it should be sufficient.

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47 Samantha Scott opened the public hearing for public comment. There were no public comments.  
48 The public hearing was closed. *Kimball Glazier moved to forward a positive recommendation*  
49 *to the City Council to amend the Vernal City Municipal Planning & Zoning Code – Section*  
50 *16.58.510 – Enforcement & Permits – Ordinance No. 2014-39 with document changes.*  
51 *Kathleen Gray seconded the motion. The motion passed with Samantha Scott, Kathleen Gray,*  
52 *Ken Latham, Kimball Glazier, Rory Taylor and Adam Ray voting in favor.*  
53

54 **ADJOURN:** There being no further business, *Rory Taylor moved to adjourn. Kimball Glazier*  
55 *seconded the motion. The motion passed with a unanimous vote, and the meeting was*  
56 *adjourned.*  
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Samantha Scott, Planning Commission Vice-Chair

# MINUTES of the Vernal City PLANNING COMMISSION

Vernal City Council Chambers - 374 East Main Street, Vernal, Utah

November 18, 2014

7:00 pm

**Members Present:** Chair Mike Drechsel, Vice-Chair Samantha Scott, Rory Taylor, Kathleen Gray, Ken Latham, and Kimball Glazier.

**Alternates Present:** Adam Ray

**Staff Present:** Allen Parker, Assistant City Manager; Corey Coleman, Building Official; and Sherri Montgomery, Administrative Clerk.

**WELCOME AND DESIGNATION OF CHAIR AND MEMBERS:** Chair Mike Drechsel welcomed everyone present to the meeting.

**RECOGNITION OF PAST PLANNING COMMISSION MEMBERS:** Chair Mike Drechsel welcomes Eric Olsen and his family to the meeting. Mr. Drechsel stated that Vernal City would like to take this time to recognize Eric Olsen for his service of seven years on the Planning Commission addressing issues for the community. Mr. Drechsel tells Mr. Olsen that Vernal City recognizes the sacrifices he has made by giving his time and being away from his family. Eric Olsen stated that it was an honor to serve on the Vernal City Planning Commission, and the way business is conducted at these meetings is very impressive. Mr. Olsen stated that it was his privilege to work with all of the Commissioners and Staff and thanked them for all their hard work as well. Mr. Drechsel also acknowledged Mr. Olsen's wife for her sacrifice, as serving keeps the Commissioner's away from their families.

**APPROVAL OF MINUTES OF OCTOBER 14, 2014 REGULAR MEETING:** Chair Mike Drechsel asked if there were any changes to the minutes from October 14, 2014. Kimball Glazier noted that on line 229, he had abstained from voting. *Samantha Scott moved to approve the minutes with the correction as noted. Kimball Glazier seconded the motion. The motion passed with Mike Drechsel, Samantha Scott, Rory Taylor, Kathleen Gray, Ken Latham, Kimball Glazier, and Adam Ray voting in favor.*

**APPROVAL OF MINUTES OF OCTOBER 28, 2014 SPECIAL MEETING:** Chair Mike Drechsel asked if there were any changes to the minutes from October 28, 2014. Kimball Glazier mentioned that on line 59, his concern is not worded properly. He asked to remove his concern with approving all phases, because there was only one. His concern was with approving 60+ lots with only one constructed exit. *Rory Taylor moved to approve the minutes of October 28, 2014 with the correction as noted. Kathleen Gray seconded the motion. The motion passed with Mike Drechsel, Samantha Scott, Rory Taylor, Kathleen Gray, Ken Latham, Kimball Glazier, and Adam Ray voting in favor.*

**REQUEST FOR RECOMMENDATION TO CONSIDER AMENDING THE VERNAL CITY MUNICIPAL PLANNING & ZONING CODE – SECTION 16.28.020 – RESIDENTIAL ZONES – ORDINANCE NO. 2014-36 – ALLEN PARKER:** Chair Mike



39 *Glazier moved to forward a positive recommendation to the City Council to consider*  
40 *Ordinance No. 2014-38 striking 16.28.085 (A) until it has been addressed more appropriately*  
141 *and adding the other two items as noted above by Mr. Parker. Adam Ray seconded the*  
142 *motion. The motion passed with Mike Drechsel, Samantha Scott, Rory Taylor, Kathleen Gray,*  
143 *Ken Latham, Kimball Glazier, and Adam Ray voting in favor.*  
144

145 **REQUEST FOR APPROVAL OF A CONDITIONAL USE PERMIT FROM WES**  
146 **SORENSEN FOR AN OUTDOOR STORAGE AREA LOCATED AT**  
147 **APPROXIMATELY 252 WEST 100 NORTH, VERNAL, UTAH – APPLICATION# 2014-**  
148 **033-CUP – ALLEN PARKER:** Allen Parker explained that this is a request for a conditional  
149 use permit for an outdoor storage yard located at 252 West 100 North on .47 acres. Vernal City  
150 Code requires a conditional use permit be obtained for an outdoor storage yard when one is  
151 proposed in a C-2 zone. This property has been used as an outdoor storage yard for a couple of  
152 years. Vernal City staff noticed this and approached Wes Sorensen to tell him that he needed a  
153 conditional use permit. Mr. Parker stated that there is an existing chain link fence around the  
154 property; however, the Code requires a six foot sight obscuring fence. Most of Mr. Sorensen's  
155 chain link fence has sight obscuring slats, but there is a portion that does not. Mr. Sorensen  
156 understands that he needs to meet the fence requirements. Chair Mike Drechsel asked what other  
157 uses this property has had there. Mr. Parker explained that the only one he was aware of was  
158 back in 1997 and was used to store three trees. Mr. Drechsel asked what Mr. Sorensen is storing.  
159 Mr. Parker explained that he is storing building materials and construction equipment for his  
160 construction business. Kimball Glazier stated that he thinks he also stores Carpets by Cal  
161 inventory. Mr. Drechsel asked if there have ever been any complaints from this lot. Mr. Parker  
162 stated no, only the staff started noticing that items were starting to be stored there. Kathleen  
163 Gray voiced her concern with it becoming like other areas in the City that eventually start piling  
164 brick cinder block on the property. Mr. Parker stated that it would be permitted. Ms. Gray asked  
165 if the City wanted that kind of stuff stored in town. Mr. Parker explained that if a conditional use  
166 permit is approved, and there is a significant negative impact to surrounding properties, certain  
167 conditions can be added to the conditional use permit to mitigate the issues such as noise,  
168 lighting, odors, etc. As per State law, the only way the Planning Commission can say no to a  
169 conditional use permit is if the impact of that use is so significant that no conditions can  
170 reasonably mitigate those impacts. Rory Taylor asked if there was anything to prevent Mr.  
171 Sorensen from piling up recycled asphalt 70 feet high in an outdoor storage yard. Mr. Parker  
172 explained that there is nothing in the Code that prevents that from happening, unless it is a  
173 restricted item such as hazardous material. Chair Mike Drechsel opened the public hearing for  
174 the conditional use permit. There being no comments, Mr. Drechsel closed the public hearing.  
175 *Kimball Glazier moved to approve the conditional use permit for Wes Sorensen for an outdoor*  
176 *storage area located at 252 West 100 North, Vernal, Utah – Application No. 2014-033-CUP*  
177 *with the condition that Mr. Sorensen meets the requirements of the six foot sight obscuring*  
178 *fence. Rory Taylor seconded the motion. The motion passed with Mike Drechsel, Samantha*  
179 *Scott, Rory Taylor, Kathleen Gray, Ken Latham, Kimball Glazier, and Adam Ray voting in*  
180 *favor.*  
181

182 **REQUEST FOR APPROVAL OF A CONDITIONAL USE PERMIT FROM TONI**  
183 **GRAHAM FOR A BED & BREAKFAST LOCATED AT APPROXIMATELY 220 WEST**  
184 **MAIN STREET, VERNAL, UTAH – APPLICATION# 2014-030-CUP – ALLEN**

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185 **PARKER:** Allen Parker explained that this is a request from Toni Graham for a conditional use  
186 permit for a bed and breakfast located at 220 West Main Street, Vernal. The property is located  
187 in a CC-1 zone and requires a conditional use permit for this use. The parking is to the east.  
188 There is a grass area out front. The property was previously a rental property. There are  
189 apartments to the north, a check cashing store to the southeast, and a church to the west. There  
190 was an analysis done on the impact to adjoining properties. Mr. Parker stated that he is  
191 recommending that this conditional use permit be approved without any conditions. Chair Mike  
192 Drechsel opened the public hearing for the conditional use permit. There being no comments,  
193 Mr. Drechsel closed the public hearing. Mr. Drechsel asked what the current or most previous  
194 use was at this location. Mr. Parker stated that it was a residential rental property.  
195

196 Toni Graham reported that the property is currently vacant. Mr. Drechsel asked when it was  
197 being rented out, how many people were living there. Ms. Graham stated that there was a single  
198 family of six there. Mr. Drechsel asked Ms. Graham if she was anticipating the same number of  
199 people at the bed and breakfast or more parties. Ms. Graham explained that there are only three  
200 bedrooms upstairs, and the living quarters downstairs for the onsite manager. Ms. Graham stated  
201 that the most she anticipates is two people per room with a total of eight including two for the  
202 onsite manager. Kimball Glazier asked where the parking was located. Mr. Parker explained  
203 that the existing parking is to the east behind the check cashing location. The Code does not  
204 require existing structures to change the parking. Rory Taylor asked about the ADA  
205 requirements. Mr. Parker explained that the building department is working with Ms. Graham  
206 right now on a few issues with potential expenses. If the modifications are too expensive, Ms.  
207 Graham may continue to use it as a single family rental property. Mr. Drechsel asked if there is  
208 enough parking to accommodate four vehicles. Ms. Graham stated that there are four parking  
209 spots, one for each room, as well as a parking spot to the side for onsite management. Pete  
210 Richardson, Ms. Graham's father, stated that where there was a grass area, it has been removed  
211 and four parking spaces installed for the bed and breakfast.  
212

213 Mr. Drechsel explained that as members of the Planning Commission, they have the ability to  
214 place conditions upon approval of a conditional use permit to protect adjacent properties and the  
215 public welfare; however, in this case, it is hard to imagine that a bed and breakfast is much  
216 different than how it has been used as a rental property. He added that there may be some  
217 wisdom in placing a reasonable cap on the number of occupants allowed. Ms. Graham explained  
218 that she has placed restrictions on the bed and breakfast by allowing only two people per room  
219 with eight maximum. Mr. Glazier asked Ms. Graham if it would cause an issue if there was a  
220 couple with an infant who was staying in one room. Ms. Graham stated that she has placed  
221 restrictions on the bed and breakfast, such as no pets allowed and no children under the age of  
222 18. She added that she would like the place to be quiet and feel like home. Mr. Drechsel asked  
223 Corey Coleman, Building Inspector, if there was a maximum occupancy for fire purposes. Mr.  
224 Coleman stated that the requirements are one person for every 100 square feet, and this building could  
225 have 10+. The Fire Marshall has looked at it, and they are continuing in the review process. Mr.  
226 Taylor asked if there would be any conflict with the length of stay with the current zoning. Mr.  
227 Parker stated no, it would be the same as a hotel. Mr. Drechsel asked if this would fall under a  
228 care taker dwelling. Mr. Parker explained that a bed and breakfast has its care taker occupying  
229 the property as per definition of the Code. *Adam Ray moved to approve the conditional use*  
30 *permit for Toni Graham for a bed and breakfast located at 220 West Main Street, Vernal,*

231 *Utah with no conditions – Application No. 2014-030-CUP. Rory Taylor seconded the motion.*  
232 *The motion passed with Mike Drechsel, Samantha Scott, Rory Taylor, Kathleen Gray, Ken*  
233 *Latham, Kimball Glazier, and Adam Ray voting in favor.*  
234

235 **REQUEST FOR RECOMMENDATION TO CONSIDER AMENDING THE VERNAL**  
236 **CITY MUNICIPAL PLANNING & ZONING CODE – CHAPTERS 16.04, 16.20, 16.34,**  
237 **16.36, 16.38, 16.40, 16.42, 16.44, 16.46 & 16.48 – GROUP HOMES – ORDINANCE NO.**  
238 **2014-21 – ALLEN PARKER:** Allen Parker explained that group homes has been discussed  
239 several times including holding a public hearing, but was tabled. This ordinance addresses group  
240 homes which has been litigated quite a bit in the state of Utah. Vernal City Council and Utah  
241 League of Cities and Town's (ULCT) Council has reviewed the ordinance. There have been a  
242 lot of changes since the original ordinance; therefore, the Planning Commission and City Council  
243 may want to consider holding a second public hearing considering the amount of changes, since  
244 the first public hearing. There are some deficiencies in the Code in the use tables that are  
245 redundant, as well as uses that have conflicts with other sections of the Code. Mr. Parker  
246 reviewed with the Planning Commission all the highlighted sections of the Code that need  
247 addressed due to discriminatory or problematic Code. Reasonable accommodations were added  
248 to the Code according to State and Federal law. Federal law states that you cannot discriminate  
249 against any protected class of individuals such as the handicapped individuals. The Code was  
250 changed from disabled to handicap to coordinate with State Code. Therefore, if you have a zone  
251 in which you allow any person to live in a residence, you have to allow those who are in  
252 protective classes to live there also with no restrictions. When there are certain types of  
253 disabilities, some people have to live in a group setting; you cannot exclude group homes from  
254 residential zones. They are entitled to live in residential zones like anyone else.  
255

256 Mr. Parker stated that if you look in the R-1 or RA-1 zone, single family dwellings are allowed  
257 only, not apartments. In those cases, four non-related people are allowed in any building. The  
258 courts say that is a form of discrimination, if you apply it to group homes. Some group homes  
259 have to have 10-20 people to function financially in a viable way. Mr. Parker explained that  
260 reasonable accommodation is required by the City. The City needs to look at the situation and  
261 requirements of the Code, as well as the requirements the applicant presents to the City, for being  
262 able to function properly in that zone. The City must make accommodations to the zoning  
263 ordinance to allow them to conduct business in that area beyond what the zoning ordinance  
264 allows. Therefore, if they need 20 people to be in that group home to function financially, the  
265 City must grant them reasonable accommodation. Kimball Glazier asked what the class is for  
266 reasonable accommodation. Mr. Parker explained that it is a protective class. Mr. Parker  
267 explained that these changes to the Code need to be made to make sure the City is protected from  
268 lawsuits. Mr. Drechsel stated that the City wants to make sure that people who are legitimately  
269 seeking to live life are able to do so on a level playing field in despite of the fact that they may  
270 have something out of their control such as age, race, gender, etc. Mr. Drechsel reminded the  
271 Planning Commission that when Federal and State law are discussed, the Commission is not  
272 expected to act as lawyers for Vernal City and understand the legal consequences of the Code.  
273 The Planning Commission is here to make sure we are abiding by Vernal City land use  
274 ordinances and meet the present Code and make recommendations and provide suggestions.  
275 Ultimately, Vernal City has an attorney that is responsible for making sure that the City is legally  
276 compliant. *Rory Taylor moved to table group homes. Kimball Glazier seconded the motion.*



77 *The motion passed with Mike Drechsel, Samantha Scott, Rory Taylor, Kathleen Gray, Ken*  
78 *Latham, Kimball Glazier, and Adam Ray voting in favor.*

279  
280 **REQUEST FOR RECOMMENDATION TO CONSIDER AMENDING THE VERNAL**  
281 **CITY MUNICIPAL PLANNING & ZONING CODE – CHAPTER 16.10 – BOARD OF**  
282 **ADJUSTMENT – ORDINANCE NO. 2014-31 – ALLEN PARKER:** Allen Parker explained  
283 that this item has been discussed and a public hearing held; however, it was tabled. At that  
284 time, there were changes discussed that are not all reflected in this ordinance. This has been  
285 brought back to this meeting as a discussion item rather than an ordinance for further refinement.  
286 Kimball Glazier recalls Kathleen Gray's concern with going from a group of people, the Board  
287 of Adjustment, to only one person making the decisions. There were some members who liked  
288 the idea of going with one person who is more educated. Mr. Glazier asked when the last time  
289 the Board of Adjustment met. Mr. Parker stated more than eight years ago. Mr. Glazier  
290 mentioned that the Planning Commission had some concerns on how well trained the Board of  
291 Adjustment is, and do they have the qualifications to handle the job. Mr. Parker stated that  
292 another one of Ms. Gray's concerns was do you get a more professional answer from a hearing  
293 officer, a better decision from a group of three people that have perhaps been trained, or a larger  
294 group of seven people that are not as trained. The type of decision that the Board of Adjustment  
295 makes is not the same type of decision that the Planning Commission makes. It is not a  
296 subjective decision that is supposed to be made by a hearing officer or a Board of Adjustment. A  
297 hearing officer or Board of Adjustment is like going to a court of law and having a judge hear the  
298 arguments that were previously presented to the Planning Commission. If someone appeals the  
299 decision of the Planning Commission to a hearing officer or Board of Adjustment, they do not  
300 take new testimony. They look over the records of the Planning Commission meeting, and they  
301 look at the law to determine if an error was made by the Planning Commission in interrupting the  
302 law, and did they do it erroneously.

303  
304 If there is a request for a variance, the variance is presented in the same legalistic way that the  
305 Code is presented and the requirements are presented and a judgment is made based on whether  
306 the request complies with State and local laws as to whether variances should be granted. Mr.  
307 Parker stated that he does not think that the current Board of Adjustment process is a good  
308 process, because it is a large Board that is hard to keep staffed and trained in a way that it can  
309 make very particular legal decisions that are outside the realm of subjectivity. Does the Board  
310 of Adjustment need to be one trained individual, such as an attorney, or a Board of three people  
311 trained specifically to make decisions on land use? The Board of Adjustment is the last step in  
312 City government, before going to District Court. The Board of Adjustment needs objectivity and  
313 professionalism. The City will also have an attorney there for legal questions by the Board of  
314 Adjustment. The attorney will present the City's side, while the complainant will present  
315 however they choose. Mr. Parker reported that using a hearing officer has been tried in other  
316 cities across the State and has been very successful. The current process with such a large  
317 Board, which used to have the authority to make subjective decisions and used to be able to  
318 grant variance with such a broad range of authority; however, they do not have that discretion  
319 anymore. Mr. Parker stated that it is an awkward Board right now that is difficult to maintain.  
320 Mr. Drechsel asked what other suggestions were made during the previous discussions on this  
321 issue. Mr. Parker stated that qualifications were discussed, the process of hiring someone to do  
322 the job, how to compensate them for their service, and whether one individual or more should be

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making these determinations. Kathleen Gray stated that she still feels that there should be more than one person with that kind of authority and suggested at least three. Ms. Gray asked what if the person with the complaint has a problem with that one person who is making the decision. Mr. Glazier mentioned that it is important that the person or persons are trained with professionalism to remove themselves if an applicant feels there is a conflict of interest. Mr. Glazier added that this person is reviewing the law, not the item itself, and feels that one person is more than capable of making a decision. Mr. Glazier asked if under section 16.10.010 (C), where it refers to a two year term and being able to be reappointed for succeeding two-year terms, if there should be a limit, so there can be new people every so often. Rory Taylor stated that he agree that it is more efficient for one person, such as a hearing officer, to review the decision of the Planning Commission rather than have another committee reviewing it. If someone feels that the hearing officer has not been fair, they still have other options such as district court. Ms. Gray stated that there might be a reason for a variance, and maybe it had not been presented to the Planning Commission for years and all of sudden it needs to because of a situation. Ms. Gray voiced her concern with one person making that decision on a law that was done a long time ago.

Mr. Drechsel asked Ms. Gray if she had the same concern at a district court level with judges who are appointed to the bench. Ms. Gray stated that a judge can remove himself due to conflict of interest. Mr. Drechsel explained that a district court judge can remove themselves from a case if they know there is a problem or conflict of interest or a defendant or the State can make a request to have a judge removed. Those requests to have a judge removed do not go to that judge; they go to the presiding judge in the district. Mr. Drechsel stated that in regards to a hearing officer, the same process could be applied for a biased issue. A concerned party with a conflict of interest could make a request to the City Council that a certain public hearing officer not be allowed on their case. The City Council could make a decision on whether there is a true conflict of interest. Mr. Parker explained that in the current Code an appeals hearing officer shall not participate in any appeal in which the appeals hearing officer has a conflict of interest; however, there is no process outlined in the Code on how to go about it. Mr. Drechsel stated that it would be good to specify to both parties that they can ask for the hearing officer not to hear their case, and it also needs addressed in the Code that if there is a conflict of interest, the hearing officer can be removed. Mr. Drechsel suggested having a backup hearing officer. Mr. Parker explained that this is a rough draft ordinance based on consultation with the City's legal counsel, attorneys from the Wasatch Front, and a hearing officer from Salt Lake City who tried to take the best laws and practices from within the State. Mr. Drechsel suggested that anywhere in the Code where you are giving authority to that one person or group of people should be grouped together under one section for clarity. Mr. Parker stated that a separate section could be created under (B. Jurisdiction and Authority). Mr. Drechsel stated that it will let parties know that they have exhausted all of the administrative remedies at the City level and will trigger their ability to file a petition with district court. Mr. Parker stated that is a good point; if you do not like something that the City has done, you cannot just take it to district court. You have to go through every step of the appeals process that exists within the City, before you are qualified to take it before the district court. Mr. Parker stated it is important that the process is clear when they have reached their appeals limit in the City. Mr. Drechsel refers to section 16.10.030 and voiced his concern with giving anyone the right to appeal, because it is at odds with what was discussed earlier. If this section is going to remain in the Code, it needs to be tempered with

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people who are adversely affected for the types of things that a hearing officer has the authority to hear. Mr. Drechsel asked why there is a public hearing required under section 16.10.040 (D). Mr. Parker explained that the word "public hearing" means something different to us than the intent in this section. It is a hearing before the public where the public can observe, but not speak. Mr. Drechsel referred to section 16.10.040 (G) and stated that it does not specify when the decision will be made. He added that "rendered" needs to mean something, such as "the decision shall become effective on the date the written decision is signed by the hearing officer". Mr. Parker explained that this could be abused if someone holds the signature for weeks. Mr. Drechsel stated that a clear time and date of the decision with notification by certified mail to all parties is important for the appeal process to the district court. Mr. Parker stated that there is not a specific time limit on how long a hearing officer or Board of Adjustment has to make a decision. Mr. Drechsel suggested 14 calendar days. This gives enough time to part-time contractors that may have other issues to attend to in life, as well as time to do legal research. Mr. Parker stated that there needs to be a way to harmonize (G) and (H) with the dates, so they cannot sign it and then hold it for days before getting it mailed to all of the parties. Mr. Drechsel stated that certified mail works really well for that, because you can tie the dates to the date the certified mail was post marked. Mr. Parker added that as part of the appeal process, the applicant would be responsible to designate a contact method by either email or a mailing address.

Mr. Drechsel referred to section 10.10.040 (I) as it relates to retaining the audio records for a minimum of sixty (60) days and asked if that was different from other retention policies in the City, since it is a government record. Mr. Parker stated that he would need to look at the retention schedule for the City. Mr. Drechsel suggested retaining those records longer than sixty (60) days. Those audio recordings could be helpful in cases being heard in district court and those cannot be done in that short amount of time. Mr. Parker stated that he has never seen an audio recording have such a short time on the retention schedule. Mr. Parker stated that he will find out why it was set at sixty (60) days, and suggested it be changed to at least a couple of years. Mr. Drechsel stated that the records should be kept at least during the appeal rights, so there is an accurate record to rely on. Mr. Drechsel referred to section 10.10.040 (K) and asked Mr. Parker if his position should be the one setting the policies and procedures for processing appeals, the conduct of an appeal hearing, and for any other purpose considered necessary to properly consider an appeal. Mr. Parker stated that the City Council and Mayor have hired this individual, and the policies should be set in stone so much that you would have to go through a public process to change it. Mr. Drechsel referred to section 16.10.060 (G) and section 16.10.190 and mentioned that these items are already addressed in State Code and could create a conflict when one changes and the other does not. He suggested removing those sections or at least referencing State Code in those sections. Mr. Drechsel referred to section 16.10.260 and stated that there is no reason the City should be telling the district court what it is authorized to do when the standards are set in the State Code. Mr. Parker agreed to take all of the proposed changes and bring back to the Planning Commission next month. *Kimball Glazier moved to table the Board of Adjustment ordinance. Ken Latham seconded the motion. The motion passed with Mike Drechsel, Samantha Scott, Rory Taylor, Kathleen Gray, Ken Latham, Kimball Glazier, and Adam Ray voting in favor.*

**REQUEST FOR RECOMMENDATION TO CONSIDER AMENDING THE VERNAL CITY MUNICIPAL PLANNING & ZONING CODE – CHAPTER 16.36 – R-1**



415 **RESIDENTIAL ZONE – ORDINANCE NO. 2014-23 – ALLEN PARKER:** Allen Parker  
16 explained that setbacks in regards to travel trailers versus permanent structures have been  
417 discussed several times in the past without a recommendation made to the City Council. The  
418 item was tabled and that is why it is back on the agenda. Mr. Parker explained that the Planning  
419 Commission needs to decide to leave it the way it stands or change the ordinance. Accessory  
420 structures have setbacks different from storage trailers, horse trailers, etc. Chair Mike Drechsel  
421 stated that there are some differences, such as in accessory buildings, you can run power with the  
422 right permits and the right inspections, but you cannot run power to a travel trailer without being  
423 in violation of City Code. Kimball Glazier mentioned that the Code is more restrictive on travel  
424 trailers than fixed buildings. Mr. Parker stated that fixed buildings can be built right up to the  
425 property line and travel trailers have to be setback a certain distance. Mr. Glazier stated that he  
426 thought the consensus in the past was to keep them similar. Mr. Drechsel asked why travel  
427 trailers that move would be more restrictive. Mr. Parker explained in some cases they are not  
428 more restrictive, such as the side setbacks. The Code allows travel trailers to be stored right up  
429 to the side of the property, even on a corner lot, as long as there is a site obscuring fence.  
430 Accessory buildings are not allowed to go out to the zero setback on the side. Mr. Parker stated  
431 that it was originally proposed that the rear setback for travel trailers be set back 10 feet from the  
432 rear property line; therefore, the City is less restrictive on travel trailers than accessory structures.  
433 Mr. Parker explained that the Planning Commission could present changes to the City Council or  
434 leave the Code the way it is. *Rory Taylor moved to not recommend any changes to Ordinance*  
435 *No. 2014-23; therefore, leaving the Code the way it is currently. Kimball Glazier seconded the*  
436 *motion. The motion passed with Mike Drechsel, Samantha Scott, Rory Taylor, Kathleen Gray,*  
437 *Ken Latham, Kimball Glazier, and Adam Ray voting in favor.*

38  
439 **FLAG LOTS – ALLEN PARKER:** Allen Parker explained that Bert Clark asked that flag lots  
440 be addressed by the Planning Commission. The concern is that a flag lot is not required at any  
441 point to come out to the full width of a lot or exceed that lot; therefore, it could be the width of  
442 the stem which is 50 feet. Mr. Parker will draft something up for a future meeting.

443  
444 **PLANNING COMMISSION VACANCIES – ALLEN PARKER:** Allen Parker reported that  
445 there is still one regular member and one alternate member vacant on the Planning Commission.

446  
447 **ADJOURN:** There being no further business, *Kimball Glazier moved to adjourn. Kathleen*  
448 *Gray seconded the motion. The motion passed with a unanimous vote, and the meeting was*  
449 *adjourned.*

450  
451  
452  

---

Mike Drechsel, Planning Commission Chair



## VERNAL PLANNING COMMISSION STAFF REPORT

DATE: 9 January 2015

ITEM: **B1**

**I. APPLICATION:** 2014-036-SUB (Isaac and Veronica Bird)

APPLICANT: Isaac and Veronica Bird  
REQUEST: Subdivision (minor) **FOR RECOMMENDATION**  
LOCATION: 387 West 500 South  
ZONING: RA-1  
ACREAGE: 1.0 Acres

### II. ANALYSIS:

The applicant is requesting approval of a minor subdivision of one (1) parcel into two (2) parcels of approximately equal size. Each of the new parcels meet dimensional and area standards set forth in Vernal City Code. Staff has conducted a full review and found that the submittal is in substantial compliance with Vernal City requirements. An engineering review has been conducted of the application by Timberline Engineering and Land Surveying and the submittal is in substantial compliance with applicable engineering standards.

### III. STAFF RECOMMENDATIONS:

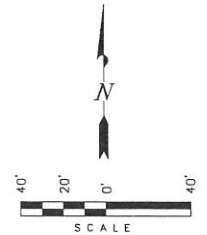
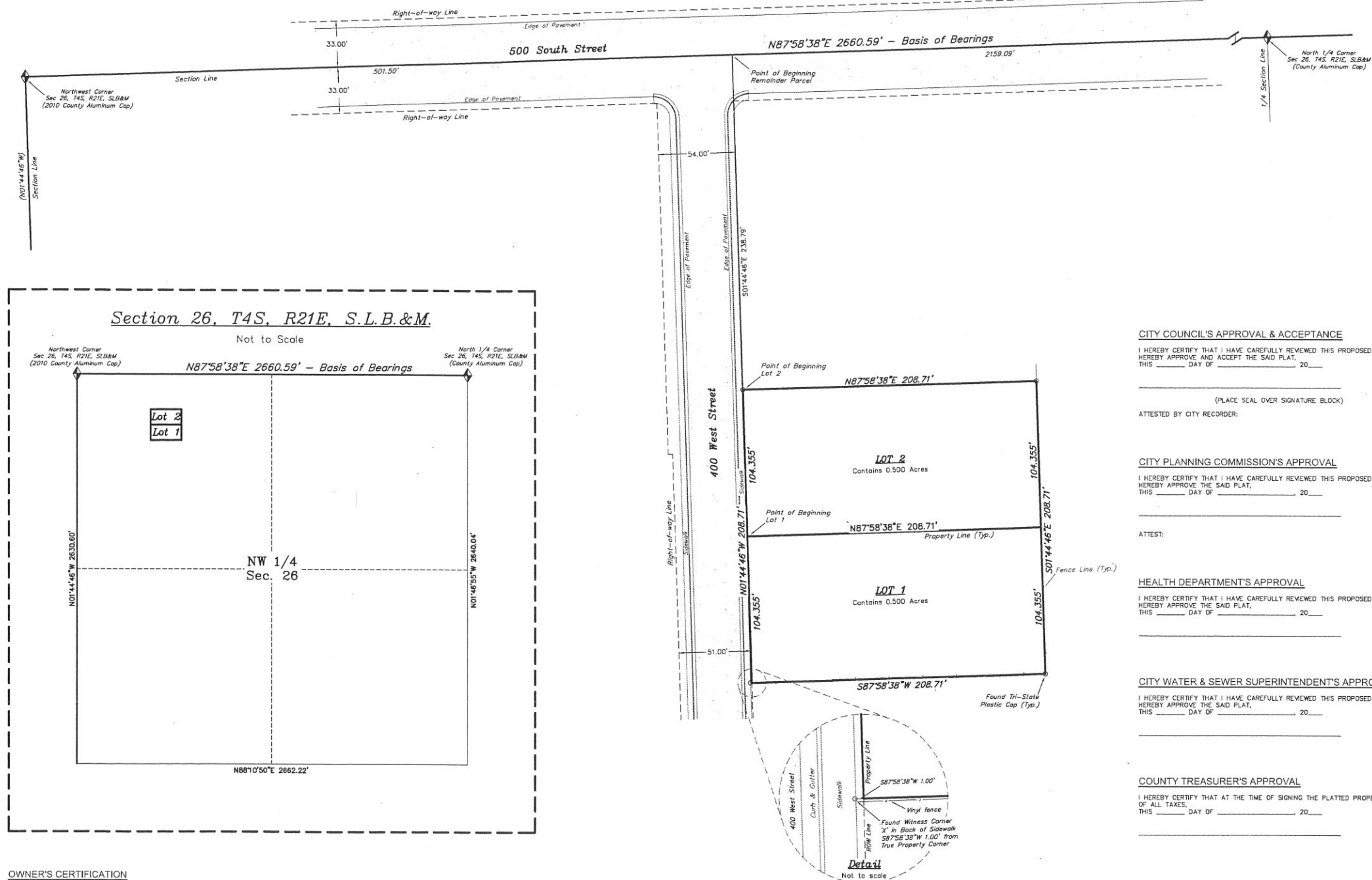
This application is in substantial compliance with Vernal City Code and the requirements contained therein. Staff finds that this is an approvable application with the following conditions:

1. Any and all corrections required by staff and/or engineering are made.

A handwritten signature in cursive script, appearing to read "Allen Parker".

Allen Parker  
Assistant City Manager/Planning Director

VERONICA & ISAAC BIRD  
MINOR SUBDIVISION  
Section 26, T4S, R21E, S.L.B.&M.  
Vernal City, Utah



CITY COUNCIL'S APPROVAL & ACCEPTANCE

I HEREBY CERTIFY THAT I HAVE CAREFULLY REVIEWED THIS PROPOSED PLAT, AND HEREBY APPROVE AND ACCEPT THE SAID PLAT.  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

(PLACE SEAL OVER SIGNATURE BLOCK)

ATTESTED BY CITY RECORDER:

CITY PLANNING COMMISSION'S APPROVAL

I HEREBY CERTIFY THAT I HAVE CAREFULLY REVIEWED THIS PROPOSED PLAT, AND HEREBY APPROVE THE SAID PLAT.  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

ATTEST:

HEALTH DEPARTMENT'S APPROVAL

I HEREBY CERTIFY THAT I HAVE CAREFULLY REVIEWED THIS PROPOSED PLAT, AND HEREBY APPROVE THE SAID PLAT.  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

CITY WATER & SEWER SUPERINTENDENT'S APPROVAL

I HEREBY CERTIFY THAT I HAVE CAREFULLY REVIEWED THIS PROPOSED PLAT, AND HEREBY APPROVE THE SAID PLAT.  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

COUNTY TREASURER'S APPROVAL

I HEREBY CERTIFY THAT AT THE TIME OF SIGNING THE PLATTED PROPERTY IS CLEAR OF ALL TAXES.  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

CITY SURVEYOR'S APPROVAL

I HEREBY CERTIFY THAT I HAVE CAREFULLY REVIEWED THE SURVEY AND LEGAL DESCRIPTION OF THIS PROPOSED PLAT, AND HEREBY APPROVE THE SAID PLAT.  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_  
SURVEYOR'S LICENSE NO. \_\_\_\_\_ STATE \_\_\_\_\_

(PLACE STAMP OVER SIGNATURE BLOCK)

ORIGINAL DESCRIPTION

(SERIAL # 05-054-0033, ENTRY # 2014006392)  
BEGINNING AT A POINT IN THE NORTHWEST 1/4 OF SECTION 26, T4S, R21E, S.L.B.&M. WHICH BEARS N87°58'38"E ALONG THE NORTH LINE OF THE SAID NORTHWEST 1/4 501.50' AND S01°44'46"E PARALLEL WITH THE WEST LINE OF THE SAID NORTHWEST 1/4 238.79' FROM THE NORTHWEST CORNER OF SAID SECTION 26, SAID NORTHWEST CORNER BEING A 2010 UTAH COUNTY ALUMINUM CAP.  
THENCE N87°58'38"E PARALLEL WITH THE SAID NORTH LINE OF THE NORTHWEST 1/4 208.71';  
THENCE S01°44'46"E PARALLEL WITH THE SAID WEST LINE OF THE NORTHWEST 1/4 208.71';  
THENCE S87°58'38"W PARALLEL WITH THE SAID NORTH LINE OF THE NORTHWEST 1/4 208.71';  
THENCE N01°44'46"W PARALLEL WITH THE SAID WEST LINE OF THE NORTHWEST 1/4 208.71' TO THE POINT OF BEGINNING.  
BASIS OF BEARINGS IS THE SAID NORTH LINE OF THE NORTHWEST 1/4 WHICH WAS TAKEN FROM THE UTAH COUNTY SURVEYOR'S BREAKDOWN TO BEAR N87°58'38"E CONTAINS 1.000 ACRES MORE OR LESS.

LOT 1 DESCRIPTION

BEGINNING AT A POINT IN THE NORTHWEST 1/4 OF SECTION 26, T4S, R21E, S.L.B.&M. WHICH BEARS N87°58'38"E ALONG THE NORTH LINE OF THE SAID NORTHWEST 1/4 501.50' AND S01°44'46"E PARALLEL WITH THE WEST LINE OF THE SAID NORTHWEST 1/4 343.145' FROM THE NORTHWEST CORNER OF SAID SECTION 26, SAID NORTHWEST CORNER BEING A 2010 UTAH COUNTY ALUMINUM CAP.  
THENCE N87°58'38"E PARALLEL WITH THE SAID NORTH LINE OF THE NORTHWEST 1/4 208.71';  
THENCE S01°44'46"E PARALLEL WITH THE SAID WEST LINE OF THE NORTHWEST 1/4 104.355';  
THENCE S87°58'38"W PARALLEL WITH THE SAID NORTH LINE OF THE NORTHWEST 1/4 208.71';  
THENCE N01°44'46"W PARALLEL WITH THE SAID WEST LINE OF THE NORTHWEST 1/4 104.355' TO THE POINT OF BEGINNING.  
BASIS OF BEARINGS IS THE SAID NORTH LINE OF THE NORTHWEST 1/4 WHICH WAS TAKEN FROM THE UTAH COUNTY SURVEYOR'S BREAKDOWN TO BEAR N87°58'38"E CONTAINS 0.500 ACRES MORE OR LESS.

LOT 2 DESCRIPTION

BEGINNING AT A POINT IN THE NORTHWEST 1/4 OF SECTION 26, T4S, R21E, S.L.B.&M. WHICH BEARS N87°58'38"E ALONG THE NORTH LINE OF THE SAID NORTHWEST 1/4 501.50' AND S01°44'46"E PARALLEL WITH THE WEST LINE OF THE SAID NORTHWEST 1/4 238.79' FROM THE NORTHWEST CORNER OF SAID SECTION 26, SAID NORTHWEST CORNER BEING A 2010 UTAH COUNTY ALUMINUM CAP.  
THENCE N87°58'38"E PARALLEL WITH THE SAID NORTH LINE OF THE NORTHWEST 1/4 208.71';  
THENCE S01°44'46"E PARALLEL WITH THE SAID WEST LINE OF THE NORTHWEST 1/4 104.355';  
THENCE S87°58'38"W PARALLEL WITH THE SAID NORTH LINE OF THE NORTHWEST 1/4 208.71';  
THENCE N01°44'46"W PARALLEL WITH THE SAID WEST LINE OF THE NORTHWEST 1/4 104.355' TO THE POINT OF BEGINNING.  
BASIS OF BEARINGS IS THE SAID NORTH LINE OF THE NORTHWEST 1/4 WHICH WAS TAKEN FROM THE UTAH COUNTY SURVEYOR'S BREAKDOWN TO BEAR N87°58'38"E CONTAINS 0.500 ACRES MORE OR LESS.

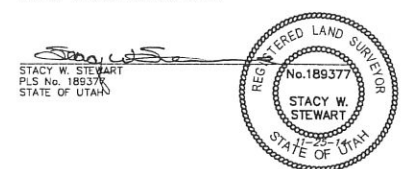
SURVEYOR'S NARRATIVE

TRI-STATE LAND SURVEYING WAS ASKED BY VERONICA BIRD TO SUBDIVIDE THE SUBJECT PARCEL INTO TWO EQUAL LOTS AS SHOWN ON THIS PLAT. THE PURPOSE OF THE SURVEY IS TO PROVIDE LEGAL DESCRIPTIONS FOR THE NEW LOTS.

AS CONTROL FOR THE SURVEY, WE USED THE NORTHWEST CORNER AND THE NORTH 1/4 CORNER OF SECTION 26, T4S, R21E, S.L.B.&M. ALSO, WE USED PREVIOUS SURVEY PLATS AS FILED FOR RECORD AT THE UTAH COUNTY RECORDER'S OFFICE FOR THE SAID SECTION. BASIS OF BEARINGS FOR THE SURVEY IS THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION WHICH WAS TAKEN FROM THE UTAH COUNTY SURVEYOR'S BREAKDOWN TO BEAR N87°58'38"E.

CERTIFICATE OF SURVEYING

THIS IS TO CERTIFY THAT THE ABOVE PLAT WAS PREPARED FROM FIELD NOTES OF ACTUAL SURVEYS MADE BY ME OR UNDER MY DIRECT SUPERVISION AND THAT THE SAME ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.



LEGEND

- SECTION CORNERS FOUND
- PROPERTY CORNERS SET (Plastic Cap on 5/8" Rebar)
- FENCE LINE

SURVEYED BY: SV	<b>Tri State</b> Land Surveying, Inc. P: (435) 781-2501 F: (435) 781-2518 180 NORTH VERNAL AVE. VERNAL, UTAH 84078
DRAWN BY: SV	
DATE: 2-5-14	
SCALE: 1" = 40'	
DWG # 14-0403	

OWNER'S CERTIFICATION

WE, THE UNDERSIGNED OWNERS OF THE FORGOING DESCRIBED TRACTS OF LAND, DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON, AND THAT WE HAVE LEGAL AUTHORITY TO AMEND THE DESCRIBED PROPERTY AS SHOWN HEREON. WE DO HEREBY TESTIFY THAT A SURVEY WAS DONE TO THE SAME AND DO HEREBY AGREE WITH THE SURVEY AND CAUSE THE SAME TO BE AMENDED AS SHOWN AND DESCRIBED ON THIS PLAT. WE FURTHER CERTIFY THAT WE ARE NOT AWARE OF ANY BOUNDARY LINE DISPUTES OR DISCREPANCIES WHICH AFFECT THE DESCRIBED PROPERTY WHICH HAS NOT BEEN SHOWN AND DESCRIBED ON THIS PLAT.

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

PROPERTY OWNER \_\_\_\_\_ PROPERTY OWNER \_\_\_\_\_

NOTARY PUBLIC'S ACKNOWLEDGMENT

STATE OF UTAH )  
COUNTY OF \_\_\_\_\_ )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, IN 20\_\_\_\_, BEFORE ME  
\_\_\_\_\_, A NOTARY PUBLIC, PERSONALLY APPEARED

PROVED ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) (IS/ARE) SUBSCRIBED TO THIS INSTRUMENT, AND ACKNOWLEDGED (HE/SHE/THEY) EXECUTED THE SAME. WITNESS MY HAND AND OFFICIAL SEAL.

NOTARY PUBLIC \_\_\_\_\_

NOTARY PUBLIC'S ACKNOWLEDGMENT

STATE OF UTAH )  
COUNTY OF \_\_\_\_\_ )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, IN 20\_\_\_\_, BEFORE ME  
\_\_\_\_\_, A NOTARY PUBLIC, PERSONALLY APPEARED

PROVED ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) (IS/ARE) SUBSCRIBED TO THIS INSTRUMENT, AND ACKNOWLEDGED (HE/SHE/THEY) EXECUTED THE SAME. WITNESS MY HAND AND OFFICIAL SEAL.

NOTARY PUBLIC \_\_\_\_\_



## VERNAL PLANNING COMMISSION STAFF REPORT

DATE: 9 January 2015

ITEM: **B2**

**I. APPLICATION:** 2014-037-SUB (Orr Memorial Subdivision)

APPLICANT: Dennis Mott  
REQUEST: Subdivision (minor) **FOR RECOMMENDATION**  
LOCATION: 1407 West Highway 40  
ZONING: CP-2  
ACREAGE: .25 Acres

**II. ANALYSIS:**

The applicant is requesting approval of a minor subdivision of one (1) parcel into two (2) parcels, one being .037 acres and the other being .214 acres. Each of the new parcels meet dimensional and area standards set forth in Vernal City Code. Staff has conducted a full review and found that the submittal is in substantial compliance with Vernal City requirements. An engineering review has been conducted of the application by Timberline Engineering and Land Surveying and the submittal is in substantial compliance with applicable engineering standards.

**III. STAFF RECOMMENDATIONS:**

This application is in substantial compliance with Vernal City Code and the requirements contained therein. Staff finds that this is an approvable application with the following conditions:

1. Any and all corrections required by staff and/or engineering are made.

A handwritten signature in cursive script, appearing to read "Allen Parker".

Allen Parker  
Assistant City Manager/Planning Director

# ORR MEMORIAL SUBDIVISION

FOR  
**DENNIS W. MOTT,  
LINDA H. MOTT &  
EDWARD DEAN SOUDERS**

LOCATED IN THE NORTHWEST QUARTER  
OF SECTION 27, TOWNSHIP 4 SOUTH,  
RANGE 21 EAST, SALT LAKE MERIDIAN.

## ORIGINAL LEGAL DESCRIPTION:

BEG S 82°08'58"E 978.712 FT FR NW COR OF SEC 27, TH S 49°06'41"E 40.10 FT, TH S 45°07'26" W 270.96 FT, TH N 49°06'41" W 40.10 FT, N/L TO S R/W LINE OF US HWY 40, TH N 45°07'26" W 270.96 FT TO R/W LINE OF 600 SO ST AND ROB. BASIS OF BEARINGS TO N LINE OF SEC 27 WHICH IS ASSUMED TO BEAR N 89°14'07" EAST, CONT 0.25 ACRES N/A.  
(As recited in that certain Warranty Deed recorded on November 23, 2011 as Entry Number 2011006420, in Book 1255, Pages 516-517 of the Uintah County Recorder's Office.)

## CURRENT LEGAL DESCRIPTION:

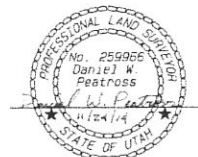
Beginning S82°08'58"E 978.712 feet from the Northwest corner of Section 27, Township 4 South, Range 21 East, Salt Lake Base and Meridian; thence S49°06'41"E 40.10 feet; thence S45°07'26" W 270.96 feet; thence N49°06'41" W 40.10 feet, more or less to the South Right of Way line of US Highway 40; thence N45°07'26" E 270.96 feet to the Right of Way line of 600 South Street and Point of Beginning. Less and Excepting the South West 40 feet of said property. Basis of Bearings is the North line of Section 27 which is assumed to bear N89°14'07"E.  
(As recited in that certain Warranty Deed recorded on May 20, 2014 as Entry Number 2014004647, in Book 1381, Pages 403-406 of the Uintah County Recorder's Office.)



- SECTION CORNER TIED TO IN THIS SURVEY, MONUMENTED WITH A UTAH COUNTY ALUMINUM CAP SET FLUSH TO PAVEMENT.
  - QUARTER SECTION CORNERS TIED TO IN THIS SURVEY, ALL MONUMENTED WITH A UTAH COUNTY ALUMINUM CAP SET FLUSH TO PAVEMENT.
  - 1/4" OCT 5/0" REDAR WITH A PLASTIC CAP STAMPED: CIVCO ENG LS 259966.
  - SET SPINDLE IN PAVEMENT UNLESS OTHERWISE NOTED.
  - FOUND OTHER SURVEY MARKERS AS NOTED.
- NOTE: (M) = MEASURED COURSES IN THIS SURVEY.  
(R) = RECORD COURSES AS RECITED BY DEED.

## SURVEYOR'S CERTIFICATE:

I, Daniel W. Peatross, do hereby certify that I am a Licensed Professional Land Surveyor, and that I hold certificate No. 259966, as prescribed by the laws of the State of Utah. I further certify that this plat and field survey was made by myself, or under my direction, and that the same is correct and true to the best of my knowledge and belief.



## OWNERS DEDICATION:

OWNER'S DEDICATION:  
We hereby certify that we have the legal right to create this minor subdivision, and do hereby petition for approval of this plat as drawn.

Dennis W. Mott, Trustee of the Dennis W. Mott Revocable Trust  
Linda H. Mott, Trustee of the Dennis W. Mott Revocable Trust  
Linda H. Mott, Trustee of the Linda H. Mott Revocable Trust  
Dennis W. Mott, Trustee of the Linda H. Mott Revocable Trust

ACKNOWLEDGMENT  
State of Utah )  
County of ) ss  
On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, person-  
ally appeared before me the signers of the above dedication who duly  
acknowledged to me that they did execute the same.

My commission expires \_\_\_\_\_  
Notary Public

OWNER'S DEDICATION:  
I hereby certify that I have the legal right to create this minor subdivision, and do hereby petition for approval of this plat as drawn.

Edward Dean Souders, Trustee of the Edward Dean Souders Living Trust

ACKNOWLEDGMENT  
State of Utah )  
County of ) ss  
On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, person-  
ally appeared before me the signer of the above dedication who duly  
acknowledged to me that he did execute the same.

My commission expires \_\_\_\_\_  
Notary Public

## SUGGESTED CORRECTED LEGAL DESCRIPTIONS:

PARCEL #1  
PROPOSED CORRECTION DESCRIPTION FOR PARCEL TO ESQUIRE RV, LLC  
TOWNSHIP 4 SOUTH, RANGE 21 EAST, SALT LAKE MERIDIAN, SECTION 27.  
Beginning at a point situated at the intersection of the Southwesterly Right of Way line of 600 South Street and the Southeasterly Right of Way line of U.S. Highway 40, said point also being South 62°14'26" East 979.54 feet from the Northwest corner of said Section; thence South 49°06'41" East 40.10 feet along said Southwesterly Right of Way line of 600 South Street; thence South 45°07'26" West 234.30 feet parallel to said Southeasterly Right of Way line of U.S. Highway 40; thence North 45°49'13" West 40.01 feet to a point on said Southeasterly Right of Way line of U.S. Highway 40; thence North 45°07'26" East 232.70 feet along said Southeasterly Right of Way line to the Point of Beginning. Contains 0.214 Acres. Basis of Bearings is the North line of Section 27 between the Northwest Section corner and the North quarter corner which is assumed to bear North 89°14'07" East.

PARCEL #2  
PROPOSED CORRECTION DESCRIPTION FOR REMAINDER PARCEL  
TOWNSHIP 4 SOUTH, RANGE 21 EAST, SALT LAKE MERIDIAN, SECTION 27.  
Beginning at a point situated along the Southeasterly Right of Way line of U.S. Highway 40, said point being South 69°48'21" East 658.67 feet from the Northwest corner of said Section 27; thence South 45°07'26" West 40.00 feet along said Right of Way line to the Northernly most corner of the property of the John B. Dehaas Family L.C.; thence South 46°49'13" East 40.01 feet along the Easterly property line of said John B. Dehaas Family L.C.; thence North 45°07'26" West 40.01 feet parallel to said Right of Way line; thence North 46°49'13" West 40.01 feet parallel to said Easterly property line of said John B. Dehaas Family L.C. to the Point of Beginning. Contains 0.037 Acres. Basis of Bearings is the North line of Section 27 between the Northwest Section corner and the North quarter corner which is assumed to bear North 89°14'07" East.

## SURVEYOR'S NARRATIVE:

We were contacted by Ed Souders to perform this survey. The purpose was to plat the legal description to parcel #05-060-0086 as recited on a Warranty Deed issued to Esquire RV, LLC, recorded on May 20, 2014 as Entry Number 2014004647, in Book 1381, Pages 403-406 of the Uintah County Recorder's Office. The legal description on the Deed creates two parcels out of one by excepting the Southwest 40 feet from the parcel described, so that Mr. and Mrs. Mott and Mr. Souders continue to retain title to that Southwest portion excepted. The Southwest 40 feet was separated out of the conveyance to Esquire RV, LLC for the purpose of providing a permanent location for the memorial of Detective Kevin S. Orr. This plat is also for the purpose of bringing the subdivision into conformity with subdivision ordinances within Vernal City.

In performing the survey it was found that along the Southwesterly boundary line between parcel Serial #05-060-0086 and #05-060-0083 that there was an overlap of 0.25 feet on the Northernly end, and a gap of 1.35 feet at the Southernly end. The chain of title was reviewed to resolve this and favor was found to be in the adjoining parcel #05-060-0083 to the West, it having the senior right. Therefore the Southwesterly boundary of the Mott-Souders parcel is fixed in place along the Easterly boundary of the senior parcel to the West.

An error was discovered on the centerline bearing of US Highway 40 on the Esquire Estates Subdivision Plat, but found that it was later on corrected by the subsequent platting of Esquire Estates Subdivision Extension #1. However another error was discovered in the Esquire Estates Subdivision Extension #1 plat with the distance along the Southeasterly Right of Way line of US Highway 40 being two feet too long at the crossing of 600 South Street. The correction places the Southernly side of the Street two feet further to the North, thereby extending the Northernly boundary of the subject parcel the same amount, since the description called for the Right of Way line of 600 South Street.

This survey was performed using GPS equipment. The Section control was taken from the Uintah County Surveyor's Control Plat of Central Ashley Valley recorded in 1985. The bearings were rotated to match the bearings cited within the legal descriptions recited herein. The Basis of Bearings therefore being North 89°14'07" East along the North Section line between the Northwest Section corner and the North quarter corner. The Section corners shown on this plat were found, observed and calibrated to, using data obtained from the Uintah County Surveyor's Plat as mentioned.

## CIVCO Engineering, Inc.

Civil Engineering Consultants  
1256 West 400 South, Suite 1 P.O. Box 1755, Vernal, UT 84708  
(435) 789-5448 civco@metastar.net

DATE REVISION	REVISION BY	SURVEY NO.
JUNE 25, 2014	D. PEATROSS	14008
DATE SURVEYED	SURVEYED BY	SHEET 1 OF 1
JUNE 25, 2014	D. PEATROSS	
DATE DRAFTED	DRAWN BY	DATE PLOTTED
NOVEMBER 2014	D. PEATROSS	NOVEMBER 26, 2014

**APPROVALS:**

VERNAL CITY PLANNING COMMISSION:  
Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by the Vernal City Planning Commission

Vernal City Planning Commission Chairman

VERNAL CITY ENGINEER:  
Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by the Vernal City Engineer.

Vernal City Engineer

VERNAL CITY COUNCIL:  
Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by the Vernal City Council.

Vernal City Mayor  
Attest: \_\_\_\_\_  
City Recorder

VERNAL CITY WATER AND SEWER DEPARTMENT:  
Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by the Vernal City Water and Sewer Department

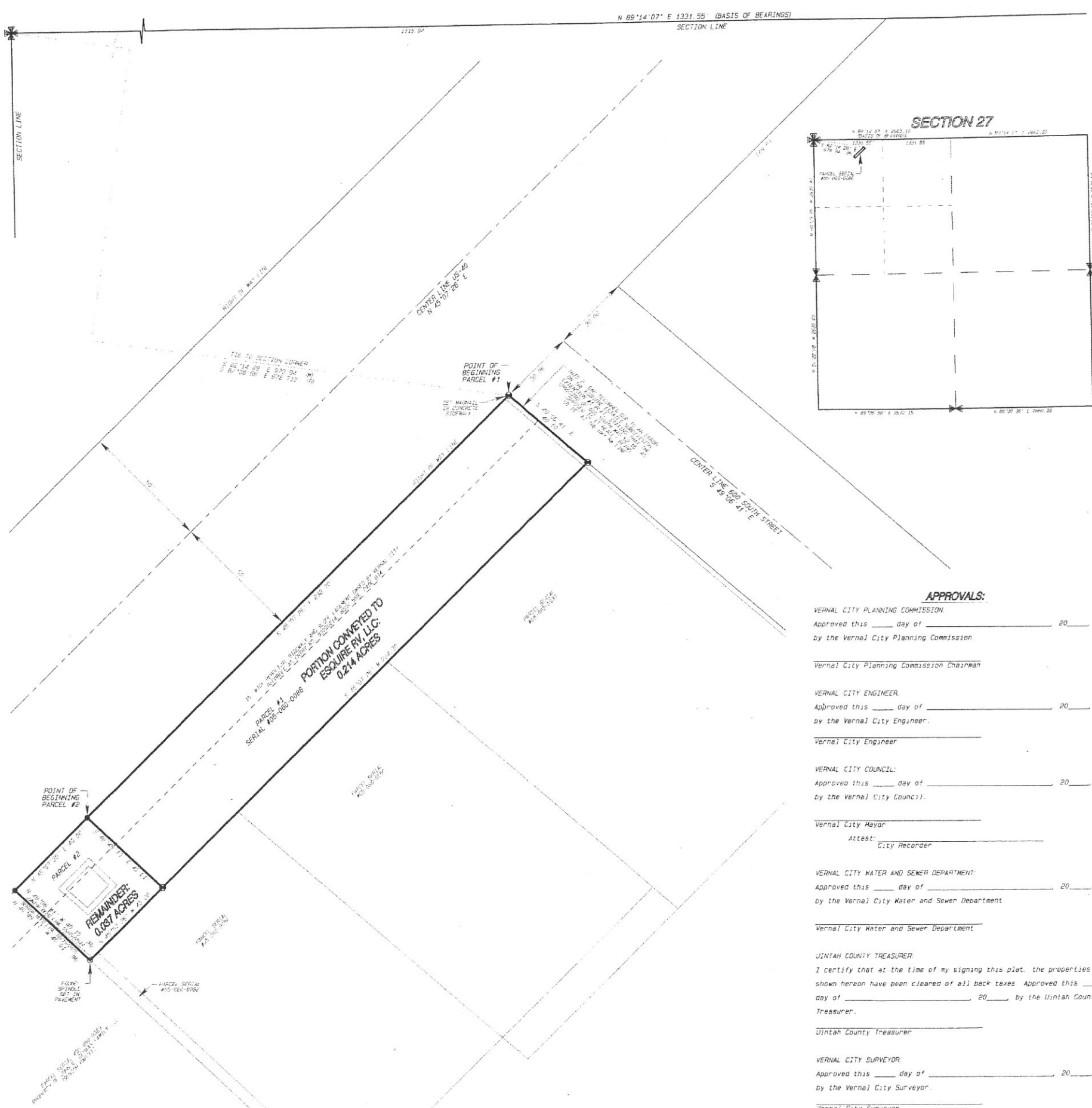
Vernal City Water and Sewer Department

UINTAH COUNTY TREASURER:  
I certify that at the time of my signing this plat, the properties as shown hereon have been cleared of all back taxes. Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the Uintah County Treasurer.

Uintah County Treasurer

VERNAL CITY SURVEYOR:  
Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by the Vernal City Surveyor.

Vernal City Surveyor





**ORDINANCE NO. 2015-01**

**AN ORDINANCE AMENDING THE VERNAL CITY MUNICIPAL CODE, SECTION 16.24.060 - FLAG LOTS PERMITTED.**

**WHEREAS**, the City Council finds that the regulation of flag lots in residential zones is necessary for orderly growth and conduct of business within the City, and;

**WHEREAS**, the City Council deems it to be in the best interest of the health, safety and welfare of the citizens to incorporate the following changes to the provisions of the Vernal City Code, and;

**WHEREAS**, the City Council has received input from the public at large in duly noticed open meetings, and has considered and discussed the advantages and disadvantages of such regulation.

**BE IT ORDAINED BY THE CITY COUNCIL OF VERNAL CITY, UTAH AS FOLLOWS:**

**Section 1. Section 16.24.060 is hereby amended to read as follows:**

**16.24.060 Flag lots permitted.**

The residential use of flag lots or panhandle shaped lots in residential zones shall be considered a permitted use provided the following requirements are met:

A. It has been demonstrated to the City Planner, Planning & Zoning Commission and City Council that because of topographical features or unique situations associated with the parcel proposed to be subdivided, that substantial use of the subject parcel can not occur unless a panhandle shape lot is allowed to be created.

B. The lot has the required width for access onto a dedicated public street as required in Section 16.26.230 and the Uniform Fire Code. Required side yards shall not be counted as part of the access strip, the access strip shall be a hard surface with adequate drainage and properly maintained. Hard surface means asphalt or concrete. Shared access for more than one lot may be allowed with a recorded easement for all property owners.

C. The body of the interior portion of the lot meets ~~the lot area requirements~~ **all of the required dimensions, to include width and area,** of ~~for~~ the zone in which it is located. The access strip shall not count as part of the land area needed to meet the lot area requirement.

D. A fire hydrant will be located within 250 feet of where the dwelling is located or proposed to be located.

E. The address of the dwelling located on the panhandle lot shall be clearly visible from a public street which the panhandle lot accesses. (PZSC § 03-11-006)(Ord. No. 98-02, Amended, 01/28/98)

**SECTION A. REPEALER.** All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance or of the code are hereby repealed.

**SECTION B. SEVERABILITY.** The provisions of this ordinance shall be severable and if



any provision thereof or the application of such provision under any circumstances is held invalid and it shall not affect the validity of any other provision of this ordinance or the application in a different circumstance.

**SECTION C. EFFECTIVE DATE.** This ordinance shall take effect the day after publication the \_\_\_\_ day of January, 2015.

\_\_\_\_\_  
Mayor Sonja Norton

ATTEST:

\_\_\_\_\_  
Kenneth L. Bassett, City Recorder

( S E A L )

Date of Publication: \_\_\_\_\_

**A RESOLUTION AMENDING THE VERNAL CITY PLANNING COMMISSION BY-LAWS.**

**BE IT ORDAINED BY THE CITY COUNCIL OF VERNAL CITY, UTAH:**

**SECTION 1. PLANNING COMMISSION BY-LAWS SECTION I – CONDUCT OF MEMBERS:**

**I. CONDUCT OF MEMBERS**

1. **ATTENDANCE:** ~~Except alternates,~~ Commission members shall advise the designated staff member or the Commission chairperson of an anticipated absence from any Commission meeting. Any member, including alternates, having more than 2 absences per year without the consent of the Chairperson shall be deemed to have vacated the office, and such vacancy shall be filled by the City Council. A leave of absence may be granted by the Chairperson. At the beginning of each meeting, a staff member shall report to the Commission any members having made prior arrangements to be absent from that meeting.

**SECTION 2. Severability.** The provisions of this resolution shall be severable and if any provision thereof or the application of such provision under any circumstances is held invalid, it shall not affect any other provision of this resolution or the application in a different circumstance.

**SECTION 3. Effective Date.** This resolution shall become effective upon adoption.

**PASSED, AND ADOPTED** this \_\_\_\_ day of January, 2015.

\_\_\_\_\_  
Mayor Sonja Norton

ATTEST:

\_\_\_\_\_  
Kenneth L. Bassett, City Recorder

( S E A L )

An ordinance establishing a hearing officer as the appeal authority for appeals relating to land use decisions, subdivisions, and variances, and setting forth procedures and standards of review; and establishing standards for granting of variances.

WHEREAS, Utah Code Ann. Section 10-9a-701 requires that municipalities establish an appeal authority for land use decisions; and,

Whereas the Utah code authorizes cities to establish a hearing officer as the appeal authority relating to land use decisions and related matters and

Whereas the Utah code authorizes cities to establish a standard of review; and,

Whereas; many of the matters dealing with land use appeals and granting of variances and related matters are technical and require a knowledge of land use law and procedures and due process; and,

Whereas; historically appeals to the previously established a board of adjustment have been very infrequent and maintaining a level of commitments and expertise among the lay volunteer members of the board of adjustment is difficult; and,

Whereas; a hearing officer can be required to have the requisite knowledge experience and skills to fairly consider the facts and apply the law to appeals relating to land use decisions

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## **16.10 APPEALS AND VARIANCES**

### **16.10.010 Appeals and Variances Hearing Officer Established**

A. Creation: The position of Appeals and Variances Hearing Officer is created pursuant to the enabling authority granted by the municipal land use, development, and management act, section 10-9a-701 of the Utah Code Annotated.

B. Jurisdiction and Authority: The Appeals and Variances Hearing Officer shall have the following powers and duties in connection with the implementation of this title:

1. Hear and decide appeals from any administrative decision made by the Planning Director in the administration or the enforcement of this title pursuant to the procedures and standards set forth in section 16.10.020, "Appeals Of Administrative Decisions", of this code;

2. Authorize variances from the terms of this title pursuant to the procedures and standards set forth in section 16.10.030, "Variances", of this code;

3. Hear and decide appeals from decisions made by the Planning Commission concerning subdivisions or subdivision amendments pursuant to the procedures and standards set forth in section 16.10.060, "Subdivisions And Condominiums", of this code; and,

4. Hear and decide appeals from administrative decisions made by the Planning Commission pursuant to the procedures and standards set forth in this code.

5. Hear and decide appeals from decisions of the Planning Director regarding reasonable accommodation of group homes including residential facilities for the elderly and residential treatment facilities.

6. Hear and decide appeals of final decisions made determining the status of nonconforming use or nonconforming structures.

7. Hear and decide appeals from final determinations of fees paid by the applicant for any land use application.

C. Qualifications: The Appeals and Variances Hearing Officer shall be appointed by the mayor with the advice and consent of the City Council. The Appeals and Variances Hearing Officer shall be appointed for a term of 2 years and thereafter may be appointed for succeeding two-year terms. The Appeals and Variances Hearing Officer shall either be law trained or have significant experience with land use laws and the requirements and operations of administrative hearing processes.

D. Conflict Of Interest: The Appeals and Variances Hearing Officer shall not participate in any appeal in which the Appeals and Variances Hearing Officer has a conflict of interest. If an appellant alleges that the Appeals and Variances Hearing Officer has a conflict of interest, and the Appeals and Variances Hearing Officer does not recuse himself/herself, the matter shall be brought before the City Council which will make the final decision concerning the existence of a conflict and what remedies are necessary to mitigate the conflict.

E. Removal of The Appeals and Variances Hearing Officer: The Appeals and Variances Hearing Officer may be removed by the mayor for violation of this title or any policies and procedures adopted by the Planning Director following receipt by the mayor of a written complaint filed against the Appeals and Variances Hearing Officer. If requested by the Appeals and Variances Hearing Officer, the mayor shall provide the Appeals and Variances Hearing Officer with a public hearing conducted by a hearing officer appointed by the mayor.

F. Employment Agreement: The Appeals and Variances Hearing Officer shall be an independent contractor; and will enter into a contract for services at the beginning of each appointed term. Terms for compensation and reimbursement will be determined and agreed upon in the contract. The terms and conditions of the contract shall be approved by the City Council.

#### **16.10.020 Appeals of Administrative Decisions**

A. Authority: As described in section C of this chapter, the Appeals and Variances Hearing Officer shall hear and decide appeals alleging an error in any administrative decision made by the Planning Director in the administration or enforcement of this title, as well as administrative decisions of the Planning Commission. In addition, the Appeals and Variances Hearing Officer



shall hear and decide applications for variances.

B. Parties Entitled to Appeal: An applicant or any other person or entity within the jurisdiction of the Appeals and Variances Hearing Officer adversely affected by a decision administering or interpreting this title may appeal to the Appeals and Variances Hearing Officer.

C. Procedure: Appeals of administrative decisions made by the Planning Director, or Planning Commission to the Appeals and Variances Hearing Officer shall be taken in accordance with the following procedures:

1. Filing of Appeal: An appeal shall be made in writing within fourteen (14) days of the administrative decision by the Planning Director or Planning Commission and shall be filed with the Planning Director. The appeal shall specify the decision appealed, the alleged error made in connection with the decision being appealed, and the reasons the appellant claims the decision to be in error, including every theory of relief that can be presented in district court.

2. Fees: Nonrefundable application and hearing fees shown on the Vernal City consolidated fee schedule shall accompany the appeal.

3. Stay Of Proceedings: An appeal to the Appeals and Variances Hearing Officer shall stay all further proceedings concerning the matter about which the appealed order, requirement, decision, determination, or interpretation was made unless the Planning Director certifies in writing to the Appeals and Variances Hearing Officer, after the appeal has been filed, that a stay would, in the Planning Director's opinion, be against the best interest of the city.

4. Notice Required:

a. Public Hearing: All hearings shall be conducted as meetings open to the attendance of the general public. Upon receipt by the Planning Director of an appeal of an administrative decision, the Appeals and Variances Hearing Officer shall be notified of the appeal and shall schedule and hold a public meeting in accordance with the standards and procedures adopted for such hearing.

b. Notice of Appeals of Administrative Decisions of the Planning Commission: Appeals from a decision of the Planning Commission are based on evidence in the record. Therefore, testimony at the appeal meeting shall be limited to the appellant and the respondent. Upon receipt of an appeal of a decision by the Planning Commission the Appeals and Variances Hearing Officer shall schedule a public meeting to hear arguments by the appellant and respondent. Notification of the date, time and place of the meeting shall be given to the appellant and respondent, by the hearing officer, a minimum of twelve (12) calendar days in advance of the meeting. The Appeals and Variances Hearing Officer may give e-mail notification, or other form of notification chosen by the Appeals and Variances Hearing Officer, a minimum of twelve (12) calendar days in advance of the hearing.

D. Standard of Review:

1. The standard of review for an appeal, other than as provided in subsection D2 of this section, shall be de novo. The Appeals and Variances Hearing Officer shall review the matter appealed anew, based upon applicable procedures and standards for approval, and shall give no deference to the decision below.

2. An appeal from a decision of the Planning Commission shall be based on the record made below.

a. No new evidence shall be heard by the Appeals and Variances Hearing Officer unless such evidence was improperly excluded from consideration below.

b. The Appeals and Variances Hearing Officer shall review the decision based upon applicable standards and shall determine its correctness.

c. The Appeals and Variances Hearing Officer shall uphold the decision unless it is not supported by substantial evidence in the record or it violates a law, statute, or ordinance in effect when the decision was made.

E. Burden Of Proof: The appellant has the burden of proving the decision appealed is incorrect.

F. Action by The Appeals and Variances Hearing Officer: The Appeals and Variances Hearing Officer shall render a written decision on the appeal. Such decision may reverse or affirm, wholly or in part, or may modify the administrative decision. **The Appeals and Variances Hearing Officer shall have fourteen (14) calendar days to render a decision.** A decision by the Appeals and Variances Hearing Officer shall become effective on the date the **written decision is signed.**

G. Notification of Decision: Notification of the decision of the Appeals and Variances Hearing Officer shall be sent by mail to all parties to the appeal within ten (10) days of the Appeals and Variances Hearing Officer's decision.

H. Record of Proceedings: The proceedings of each appeal hearing shall be recorded on audio equipment. The audio recording of each appeal hearing shall be kept **in accordance with the records retention requirements of the State of Utah.** Copies of the audio recordings of such hearings may be provided, if requested, at the expense of the requesting party.

I. Appeals: Any person adversely affected by a final decision made by the Appeals and Variances Hearing Officer may file a petition for review of the decision with the district court within thirty (30) days after the decision is rendered.

J. Policies and Procedures: **The Planning Director**, with the advice of the city attorney, shall adopt policies and procedures, consistent with the provisions of this section, for processing appeals, the conduct of an appeal hearing, and for any other purpose considered necessary to properly consider an appeal.

K. Appeal of the Decision of the Appeals and Variances Hearing Officer: Any person adversely affected by a final decision made by the Appeals and Variances Hearing Officer may file



a petition for review of the decision with the district court within thirty (30) days after the decision is rendered.

L. Stay of Decision: The Appeals and Variances Hearing Officer may stay the issuance of any permits or approvals based on its decision for thirty (30) days or until the decision of the district court in any appeal of the decision.

#### **16.10.030 Variances**

A. The variance procedures are intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this title that create unreasonable hardships. When such hardships may be more appropriately remedied, if at all, pursuant to other provisions of this title, the variance procedure is inappropriate.

B. Authority of Appeals and Variances Hearing Officer: The Appeals and Variances Hearing Officer may grant variances from the provisions of this title only in compliance with the procedures set forth in section D of this chapter and only in accordance with each of the standards enumerated in this chapter.

C. Parties Entitled to Seek Variances: Applications for variances may be filed by an owner of the property affected or by the property owner's authorized agent. All applications for variances shall be filed on forms approved by the Planning Director.

#### **D. Procedures:**

1. Application: An application for a variance shall be filed with the Planning Director and shall include the following items and information unless determined inapplicable by the Planning Director:

a. The property owner's name and address and the owner's signed consent to the filing of the application;

b. The applicant's name and address, if different than the owner, and the applicant's interest in the subject property;

c. The names and addresses of all professional consultants, if any, advising the applicant with respect to the application;

d. The address and legal description of the subject property;

e. County ownership plat numbers identifying the property; and

f. Noticing and posting requirements shall be met as specified in this title.

g. A site plan drawn to scale identifying all property lines, structures, including primary and accessory structures, fences, right of way, and their respective distances from the property

lines;

h. An elevation drawing to scale showing all elevations of existing and proposed structures;

i. When the variance involves building height a streetscape plan showing the height of the buildings on both sides of the street to the nearest intersection;

j. When the variance involves grade changes, a topographical drawing prepared by a licensed surveyor shall be included. The existing topography shall be shown in dashed lines at two foot (2') intervals and the proposed grade shall be shown in solid lines at two foot (2') intervals. All retaining walls shall be identified and the height shall be shown on the plan relative to the proposed grades. Retaining walls shall be designed by a structural engineer licensed to practice in the state; and

k. When a variance request involves setbacks or height or grade changes a complete landscape plan shall be provided. Plans shall show landscape design and identify all species and caliper of proposed plants.

l. A color aerial plat map of the area, not less than 14" x 20" and showing the area of the requested variance and at least 500 feet on each side of the area.

m. The specific feature or features of the proposed use, construction or development that require a variance;

n. The specific provision of this title from which the variance is sought and the precise variance being sought;

o. A statement of the characteristics of the subject property that prevent compliance with the provisions of this title and result in unnecessary hardship;

p. A statement of the minimum variation of the provisions of this title that would be necessary to permit the proposed use, construction or development;

q. An explanation of how the application satisfies each standard set forth in this chapter;

r. Any other information identified by the Planning Director to be pertinent to the requested variance.

2. Fees: Nonrefundable application and hearing fees shown on the Vernal City consolidated fee schedule shall accompany the application for a variance.

3. Hearing: All hearings shall be conducted as meetings open to the attendance of the general public. Upon receipt of a complete application for a variance, the Appeals and Variances Hearing Officer shall hold a hearing with notice in accordance with the requirements of this title.

4. Action By Appeals and Variances Hearing Officer: Upon the close of the hearing the Appeals and Variances Hearing Officer shall render its decision, granting, granting with conditions, or denying the variance, unless the appeal and variances hearing officer determines that additional time to study the information presented is necessary and which case a written decision shall be promptly rendered and delivered to each of the parties by mail or email.

5. Special Procedures In Connection With Other Applications: Whenever a variance is needed in addition to a zoning amendment or a conditional use, the zoning administrator shall not schedule a hearing on the variance until a final approval has been rendered on these other applications by the Planning Commission or the City Council, as applicable.

E. Prohibited Variances: The Appeals and Variances Hearing Officer shall not grant a variance that:

1. Is intended as a temporary measure only; or,
2. Is greater than the minimum variation necessary to relieve the unnecessary hardship demonstrated by the applicant; or,
3. Authorizes uses not allowed by law (i.e., a "use variance").

F. Standards for Variances: Subject to the limitations and provisions set forth in this chapter, the Appeals and Variances Hearing Officer may grant a variance from the terms of this title only if:

1. General Standards:
  - a. Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title;
  - b. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;
  - c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;
  - d. The variance will not substantially affect the general plan of the city and will not be contrary to the public interest; and
  - e. The spirit of this title is observed and substantial justice done.

2. Circumstances Peculiar to Property: In determining whether or not enforcement of this title would cause unreasonable hardship under subsection A of this section, the Appeals and Variances Hearing Officer may not find an unreasonable hardship unless:

- a. The alleged hardship is related to the size, shape or topography of the property for which the variance is sought; and

b. The alleged hardship comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

3. Self-Imposed Or Economic Hardship: In determining whether or not enforcement of this title would cause unreasonable hardship under subsection A of this section, the Appeals and Variances Hearing Officer may not find an unreasonable hardship if the hardship is self-imposed or economic.

4. Special Circumstances: In determining whether or not there are special circumstances attached to the property under subsection A of this section, the Appeals and Variances Hearing Officer may find that special circumstances exist only if:

a. The special circumstances relate to the alleged hardship; and

b. The special circumstances deprive the property of privileges granted to other properties in the same zoning district.

G. Variances Less Than Requested: A variance less than or different than that requested may be authorized when the record supports the applicant's right to some relief but not to the relief requested.

H. Conditions On Variances: In authorizing a variance, the Appeals and Variances Hearing Officer may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest to mitigate any harmful effects of the variance or that will serve the purpose of the standard or requirement that is waived or modified. The Appeals and Variances Hearing Officer may require a guarantee or bond to ensure that the conditions imposed will be followed. These conditions shall be expressly set forth in the Appeals and Variances Hearing Officer's decision granting the variance. Violation of any condition or limitation on the grant of a variance shall be a violation of this title and shall constitute grounds for revocation of the variance.

I. Effect of Granting a Variance: The granting of a variance shall not authorize the establishment or extension of any use, nor the development, construction, reconstruction, alteration or moving of any building or structure but shall merely authorize the preparation, filing and processing of applications for any permits and approval that may be required by the regulations of the city, including, but not limited to, a zoning certificate, a building permit, a certificate of occupancy, subdivision approval, and site plan approval.

J. Limitations on Variances: Subject to an extension of time granted upon application to the Planning Director no variance shall be valid for a period longer than one year unless a building permit is issued or complete building plans have been submitted to the division of building services and licensing within that period. The Planning Director may grant an extension of a variance for up to one additional year when the applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact. Extension requests must be submitted prior to the expiration of the variance.



K. Appeal of Decision: Any person adversely affected by a final decision made by the appeals hearing officer may file a petition for review of the decision with the district court within thirty (30) days after the decision is rendered.

L. Stay of Decision: The Appeals and Variances Hearing Officer may stay the issuance of any permits or approval based on its decision for thirty (30) days or until the decision of the district court in any appeal of the decision.

#### **16.10.040 Nonconforming Use**

A. Appeal: Any person adversely affected by a final decision made by the Planning Director determining the status of a nonconforming use or noncomplying structure may appeal the decision to the Appeals and Variances Hearing Officer in accordance with the provisions of this title.

#### **16.10.050 Group Homes**

A. Appeal: Any person adversely affected by a final decision by the Planning Director determining the granting of accommodations or denial of accommodations requested by an applicant for a group home including residential facilities for the elderly and residential treatment facilities may appeal the decision to the Appeals and Variances Hearing Officer in accordance with the provisions of this title.

#### **16.10.060 Subdivisions**

A. Appeal of Administrative Decision: Any person adversely and materially affected by any final decision made by the Planning Director or designee under the subdivision ordinance may file a petition for review of the decision with the Planning Commission within ten (10) days after the record of decision is announced.

B. Appeal of Planning Commission Decision: Any person adversely affected by any final decision made by the Planning Commission under the subdivision ordinance, including a decision made by the Planning Commission on appeal from a decision of the Planning Director; may file a petition for review of the decision with the Appeals and Variances Hearing Officer within fourteen (14) days after the decision is rendered.

C. Appeals of Appeals and Variances Hearing Officer and City Council Decisions: Any person adversely affected by any final decision made by the Appeals and Variances Hearing Officer or the City Council under this title: SUBDIVISIONS, may file a petition for review of the decision with the district court within ten (10) days after the decision is rendered.

#### **16.10.070 Appeal of Fees**

A. Any person aggrieved by a the fees charged or assessed for a land-use application may file a petition for review of the decision or assessment with the Appeals and Variances Hearing Officer in accordance with the provisions of this ordinance within 5 business days after the fee is finally

established. An application for a land use is not considered filed until the fee required for that application is paid. In the event a fee is appealed the applicant may pay the disputed fee and proceed to have the application considered while the appeal is being processed with any subsequent increase in the fee determined after the appeal or decrease in the fee determined after the appeal to be adjusted and paid or refunded at the time of the decision of the Appeals and Variances Hearing Officer.

#### **16.10.080 Exhaustion of Administrative Remedies**

A. No person may challenge in district court the city's actions on any petition under this title until that person has exhausted all available administrative remedies

#### **16.10.090 Standard of Review: District Court**

A. Any person adversely affected by any decision of the Appeals and Variances Hearing Officer may petition the district court for a review of the decision in accordance with Utah Code Ann. Section 10 – 9a – 801 et. Seq.

B. In the petition, the plaintiff may allege only that the appeals and variance hearing officer's decision was arbitrary, capricious or illegal.

C. The petition is barred unless it is filed within 30 days after the appeals and variance hearing officer's decision is final.

D. The appeals and variance hearing officer shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders and if available a true and correct transcript of its proceedings. If an audio recording of the proceeding was made, a transcript of that recording is a true and correct transcript for purposes of this subsection.

E. If there is a record, the district court's review is limited to the record provided by the appeals and variance hearing officer. The court may not accept or consider any evidence outside the appeals and variance hearing officers record unless that evidence was offered to the appeals and variance hearing officer and the court determines that it was improperly excluded.

F. If there is no record, the court may call witnesses and take evidence.

G. The court shall affirm the decision of the appeals and variance hearing officer if the decision is supported by substantial evidence in the record.

#### **16.10.100 Ex Parte Contact**

A. Ex Parte communication between the appeals and variance hearing officer and parties involved in an appeal pending before the hearing officer relating in any way to the subject of the appeal is prohibited.

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REPEALER: the following sections of the Vernal City Code are hereby superseded and replaced by the provisions of this ordinance, to wit:\_\_\_\_\_.

SEVERANCE: should any provisions of this ordinance be found by a court of competent jurisdiction to be illegal or unenforceable the remaining provisions or sections of this ordinance shall remain in force and effect.

EFFECTIVE DATE: this ordinance shall become effective immediately upon adoption by a the Vernal City Council and posting and/or publication as required by law.

Date

Attest:

Mayor signature

City Recorder

**16.04 Definitions ADD THE FOLLOWING:**

16.04.022 Animal Boarding (Short Term) A commercial facility that, in a completely enclosed facility, keeps household pets as defined herein for a period not to exceed one (1) business day.

16.04.187 Dwelling, Caretaker A dwelling on the same site as a building, operation, plant or recreation facility that is occupied by an employee of those premises.

**16.48.050 Uses ADD THE FOLLOWING:**

Animal Boarding (Short Term)	P	P	(permitted in both the C-2 and CC-1 zones)
Caretaker Dwelling	P	P	(permitted in both the C-2 and CC-1 zones)

**16.44.040 Minimum Area Requirements ADD THE FOLLOWING:**

C. One (1) family dwelling utilizing zero side yard: four thousand five hundred (4,500) square feet.

**16.44.050 Minimum Width Requirements ADD THE FOLLOWING:**

C. One (1) family dwelling utilizing zero side yard: forty-five (45) feet.

**16.44.060 Setback Requirements REPLACE WITH THE FOLLOWING:**

A. Front Setback: All buildings and structures shall be set back at least twenty (20) feet from the front lot line.

B. Side Setback:

1. All dwellings and other main buildings shall be set back from the side property line a distance of at least five (5) feet.

2. The minimum side setback for accessory buildings shall be the same as for main buildings except that no side setback shall be required for accessory buildings located twelve (12) feet or more in back of the dwelling.

3. On corner lots, the side setback from the street along the exterior lot line for any dwelling, accessory building or other main building shall not be less than twenty (20) feet, unless:

a. The exterior lot line is directly adjacent to an unimproved, undeveloped section of public right-of-way. If this is the case, the side setback for accessory buildings shall be ten (10) feet.

C. Rear Setback:

1. For interior lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least ten (10) feet. Accessory buildings shall be set back at least one (1) foot from the rear property line.

2. For exterior lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least ten (10) feet. Accessory buildings on corner lots shall be set back from the rear property line a distance of not less than five (5) feet.